

drawings are not evidence of actual proportions when drawings are not to scale. In addition, the Examiner contends that applicants have not set forth the criticality of the limitations.

It is respectfully submitted that the MPEP section cited by the Examiner relates to the taking of measurements of particular drawing features rather than more broadly recited relationships between various components. Section 2125 also states, for example, that the description of an article pictured can be relied on, in combination with the drawings, for what they would reasonably teach one of ordinary skill in the art citing *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977). Further in this regard, an Amendment that conforms the written specification to the original drawing does not introduce new matter. See, *Litton Systems, Inc. v. Whirlpool Corp.*, 728 F.2d 1423, 221 USPQ 97 (Fed. Cir. 1984). It is well accepted that drawings alone may provide a written description of an invention sufficient to satisfy the requirement of 35 U.S.C. § 112. The issue is simply whether one skilled in the art could derive the claimed subject matter from the drawings. In other words, drawings constitute an adequate description if they describe what is claimed and convey to those of skill in the art that the patentee actually invented what is claimed. *Cooper Cameron Corp. v. Kvaerner Oil Field Products, Inc.*, 291 F.3d 1317 62 USPQ2d 1846 (Fed. Cir. 2002).

With respect to the limitations at issue here, it is readily apparent from Figures 2-5, without measurement, that axially aligned pegs 46, 48 extend perpendicular to the elongated slot 54. The additional limitation requiring the pegs to be located substantially in a common plane with the leg portions 42, 44 is readily apparent, without measurement, from Figure 5. As such, the amendments to the specification merely express in words that which was clearly shown in the drawings as filed and, accordingly, no new matter has been introduced into the specification by reason of the amendment to the specification.

The Examiner has rejected claims 1, 2, 6, 7 and 9 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The propriety of the rejection is based on the new matter objection discussed above for the same reasons proffered by applicants in response to the new matter objection, it is respectfully submitted that the rejected claims are in full compliance with 35 U.S.C. § 112, first paragraph, by reason of the text added in the response of May 17, 2006, support for which is clearly shown in the drawings as filed.

The Examiner continues to reject claims 1, 2, 6, 7 and 9 under 35 U.S.C. § 103 as unpatentable over Obrochta et al. in view of the acknowledged prior art and further in view of either Willett or Lee for the reasons stated on pages 4-7 of the Official Action. According to the Examiner, amendments to the claims relating to limitations regarded as new matter are addressed via underlined portions of the text in the statement of the rejection.

Thus, referring to page 4 of the Official Action, while the Examiner contends that pegs 28, 30 of Obrochta lie in a common plane, they of course do not lie in a plane common with the pair of legs separated by the slot 37. The Examiner apparently relies on the acknowledged prior art for disclosing a “pants-leg shaped core”, and asserts that the leg portions of a pants-leg shaped core would necessarily be in a common plane. Even if the leg portions in Obrochta were “straightened out” so as to lie in a common plane, it remains that the pegs 28, 30 would not lie in a common plane with the legs. Rather, the pegs would lie in a plane perpendicular to the plane of the legs. Claim 1, on the other hand, requires that the pegs be axially aligned unlike the pegs in Obrochta, and that the pegs lie in a common plane with the legs of the pants-leg shaped core. Indeed, the Examiner’s position as stated on page 5 of the Official Action, where the proposed combination of Obrochta with the acknowledged prior art “. . . would result in the arrangement of pegs of Obrochta et al. being substantially perpendicular to the co-planar ‘pants-leg’ shaped

core . . .” (emphasis added) confirms applicants’ position that the proposed combination does not meet the requirements of independent claim 1.

Neither Willett nor Lee remedy the deficiencies in the base combination of Obrochta with the acknowledged prior art and thus the combination of references fails to establish prima facie obviousness with respect to independent claim 1.

In addition, and for the reasons stated in applicants’ prior response, the proposed modification to Obrochta would in fact destroy the core for its intended purpose. In response to this fact, the Examiner notes the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference but what the combined teachings of the references would have suggested to those of ordinary skill in the art. It is respectfully submitted that the acknowledged prior art teaches nothing with respect to any modification of Obrochta and thus, there is no teaching, suggestion or motivation provided in the prior art for making the proposed combination.

For all of the above reasons, the application is now in condition for allowance, and early passage to issue is respectfully requested. In the event, however, any small matters remain outstanding, the Examiner is encouraged to telephone the undersigned so that the prosecution of this application can be expeditiously concluded.

BEDDARD et al.
Appl. No. 10/604,220
August 29, 2006

The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:

A handwritten signature in dark ink, appearing to read "Michael J. Keenan", is written over a horizontal line.

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